

CASE NUMBER: 16CW0148  
APPLICANT: Chesterfield County



STAFF'S ANALYSIS  
AND  
RECOMMENDATION

**Board of Supervisors (BOS)**

**Public Hearing Date:**

DECEMBER 16, 2015

**BOS Time Remaining:**

337 DAYS

**Applicant's Contact:**

CHESTERFIELD COUNTY PARKS  
AND RECREATION – BRIAN  
GEOUGE (804-318-8720)

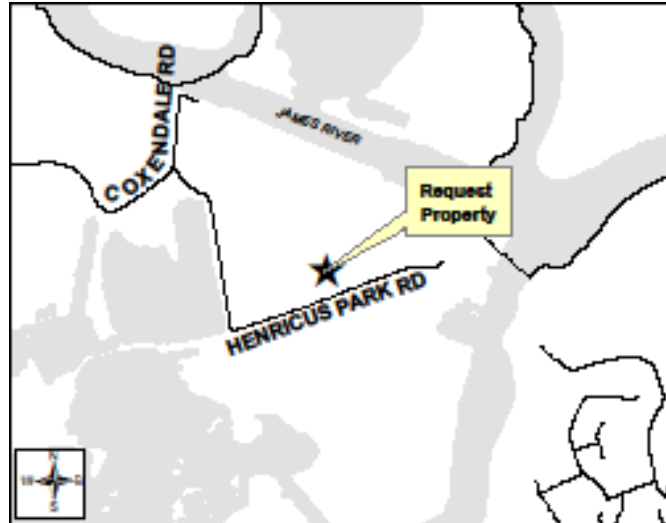
**Case Manager:**

WEEDON CLOE (804-768-7797)

**CHESTERFIELD COUNTY, VIRGINIA**

Magisterial District: **BERMUDA**

421 Coxendale Road



**APPLICANT'S REQUEST**

An exception to the requirements of Section 19.1-524 of the Zoning Ordinance as it relates to the Chesapeake Bay Preservation Act (CBPA). Specifically, the applicant is requesting to encroach into 0.25 acres of an existing Resource Protection Area (RPA) to perform grading and construction for a fifteen (15) unit parking area and associated appurtenances for access to a proposed boardwalk trail within the James River marsh at Henricus Park.

**RECOMMENDATION**

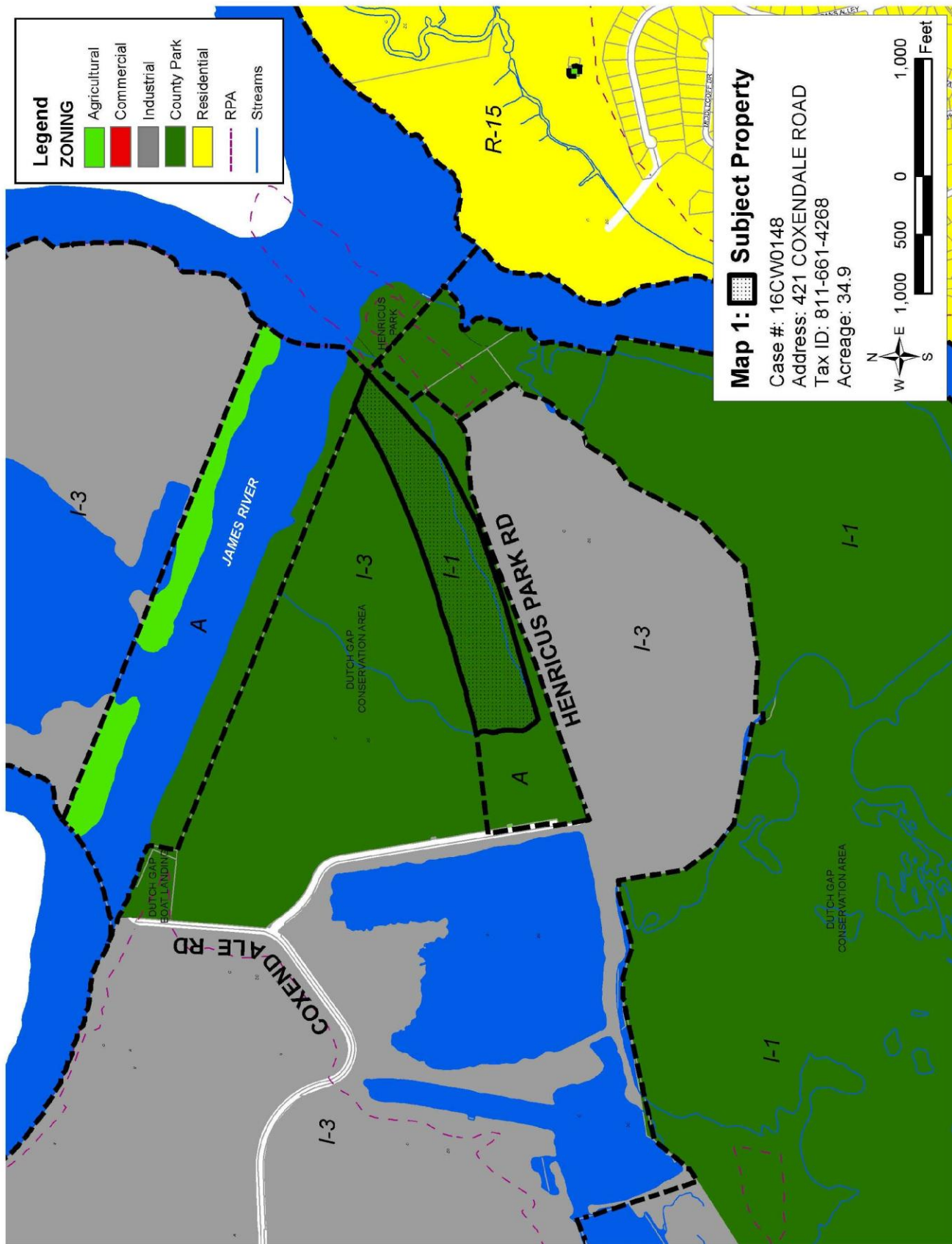
PLANNING  
COMMISSION

Under the Zoning Ordinance, a Chesapeake Bay Preservation Act exception request goes directly to the Board of Supervisors without a Planning Commission recommendation.

STAFF

**RECOMMEND APPROVAL**

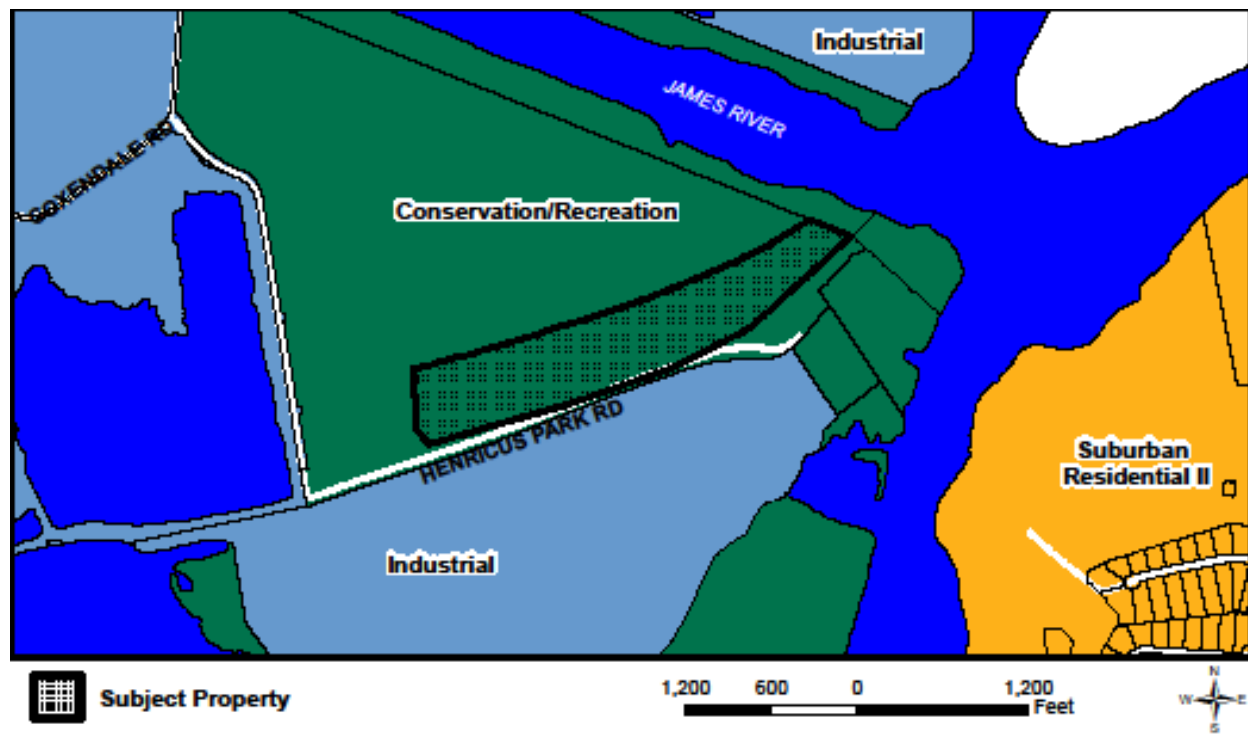
Recommend approval with the four (4) conditions outlined in Attachment 1.



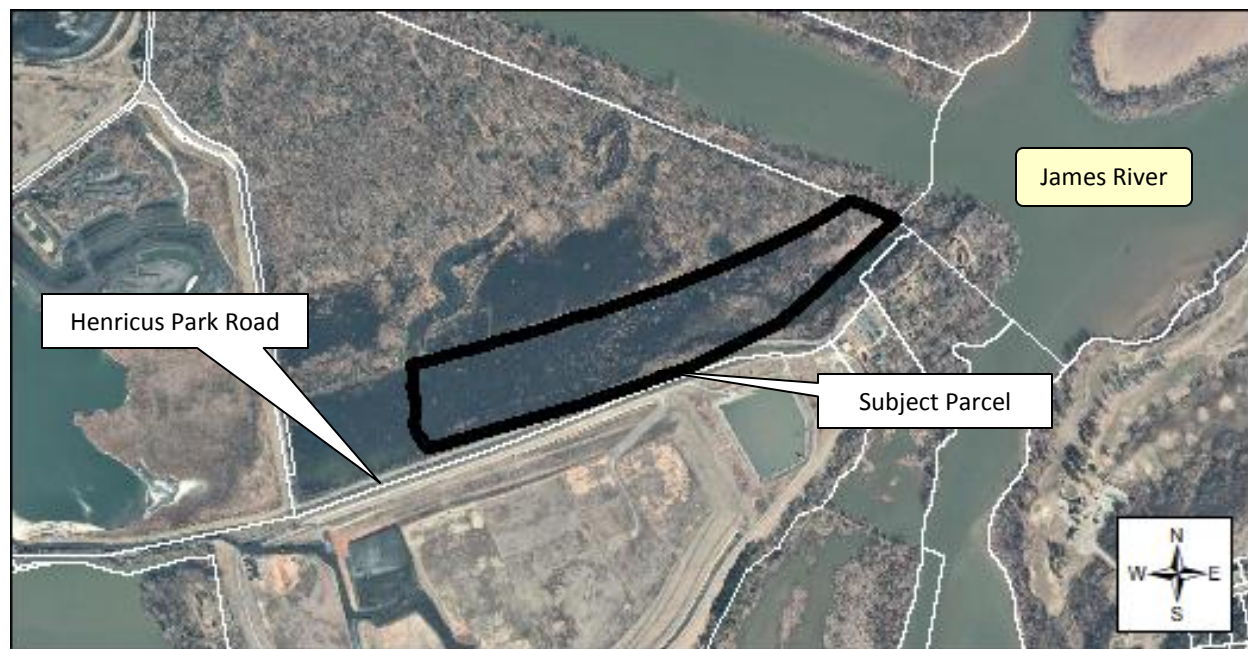
## Map 2: Comprehensive Plan

Classification: **Conservation/Recreation**

The designation suggests the property is appropriate for county parklands use.



## Map 3: Surrounding Land Uses & Development



## ENVIRONMENTAL

### Drainage, Erosion and Water Quality

Staff Contact: Weedon Cloe (804-768-7797) [cloew@chesterfield.gov](mailto:cloew@chesterfield.gov)

## PROPOSAL

On September 17, 2015 the applicant submitted an application to request an exception to the requirements of Section 19.1-524 of the Zoning Ordinance as it relates to the Chesapeake Bay Preservation Act (CBPA). A Resource Protection Area (RPA) buffer associated with all jurisdictional features of the James River is 33.9 acres and encompasses the entirety of the subject property. The character of the RPA buffer in the project area consists of small (1-3" diameter) hardwood trees, dense shrubs and groundcover vegetation.

The applicant proposes to impact approximately 10,890 square feet or 0.25 acres of existing RPA along Henricus Park Road for the construction of a 15 unit parking area and associated appurtenances for access to a proposed boardwalk trail within the James River marsh at Henricus Park (Exhibit A). A 152' X 30' parking area consisting of 15 parking spaces will be constructed of pervious pavers to allow stormwater to percolate through the parking area on site. Additionally, two 4' polyvinyl chloride (PVC) underdrains discharging through a retaining wall along the northern bank to a gravel diaphragm will help prevent downslope scour and erosion. The entire parcel is located in the RPA, which requires the approval of this encroachment to accommodate the construction of the parking area. The applicant has minimized the encroachment by keeping the parking area located adjacent to an existing road. This will require minimal grading and tree removal for construction.

The applicant asserts that implementation of the limits of Chesapeake Bay Preservation Areas (CBPAs), which includes RPA associated with James River would preclude the use of the proposed impacted area for the inclusion of the proposed parking area. Consequently, the applicant requests an exception to the requirements of Section 19.1-524 of the Zoning Ordinance as it relates to the Chesapeake Bay Preservation Act (CBPA). The applicant has offered an acceptable Water Quality Impact Analysis (WQIA) that satisfactorily meets the required six findings as prescribed by the zoning ordinance for encroachment into the RPA (Exhibit B).

Staff recommends approval subject to the four (4) conditions in Attachment 1.

CASE HISTORY	
Applicant Submittals	
9/17/15	Application submitted
10/16/15	Water Quality Impact Assessment approved
11/30/15	Revisions to Statement of Six Findings specified by Section 19.1-527.B for exceptions to the requirements of Sections 19.1-524 and 19.1-525 of the Chesterfield County Chesapeake Bay Preservation Ordinance approved
Board of Supervisors Meeting	
11/18/15	<p><b>Citizen Comments</b></p> <p>No citizens spoke to this case. The public hearing was closed.</p> <p><b>Board Discussion</b></p> <p>The Board noted their desire to defer this case to the next regularly scheduled Board of Supervisors meeting to allow staff the opportunity to review additional information supporting the applicant's statement of six findings.</p> <p><b>Action - DEFERRED TO DECEMBER 16, 2015</b></p>
The Board of Supervisors on Wednesday, December 16, 2015, beginning at 6:30 p.m., will consider this request.	

#### ATTACHMENT 1

### CONDITIONS

1. The mitigation measures outlined in the document titled *Water Quality Impact Assessment, Dutch Gap Henricus Parking and Boardwalk and Statement of Exception Findings* prepared by Austin Brockenbrough and Associates, LLP last revised November 27, 2015 shall be incorporated and implemented during the plan review process. (EE)
2. The Department of Environmental Engineering may approve alternative mitigation measures if it is determined that such alternatives will not increase impacts to the Resource Protection Area (RPA) or downstream water bodies. (EE)
3. The applicant shall maintain erosion and sediment control measures as required by the Department of Environmental Engineering and ensure preservation of the remaining vegetation. (EE)
4. Approval of this exception is for encroachment into the RPA buffer only and does not guarantee development of the site as explicitly proposed in the WQIA referenced in Condition 1 above. Development of the site is subject to all ordinance requirements, review processes, building permits and/or other requirements currently adopted at the time of plans review. (EE)



**Site layout depicting encroachment into RPA. Note the entirety of Henricus Park is encompassed within the RPA of the James River.**



# Exhibit B

**Applicant's response to the six findings specified by Section 19.1-527.B for exceptions to the requirements of Sections 19.1-524 and 19.1-525 of the Chesterfield County Chesapeake Bay Preservation Ordinance**

## STATEMENT OF EXCEPTION FINDINGS AS REQUIRED BY SECTION 19.1-527.B.1

DUTCH GAP HENRICUS

### **PARKING AND BOARDWALK**

421 Coxendale Rd, South Chesterfield, VA 23803

GPIN #s 811-661-4268

September 16, 2015

Revised November 27, 2015

This Statement of Findings was prepared to request an Exception to Sections 19.1-524 and 19.1-525 of the Zoning Ordinance related to encroachments into the Resource Protection Area (RPA) of the James River. The proposed project includes the development of a 15-space pervious paver parking lot to serve a proposed boardwalk/trail. While the boardwalk/trail portion of the project qualifies as an exempt activity (passive recreation) under Section 19.1-526.A of the Zoning Ordinance, the parking lot does not and therefore requires an exception per Section 19.1-527 of the Zoning Ordinance. Below are the responses to the required findings to support making an exception to the Zoning Ordinance:

a. The requested exception is the minimum necessary to afford relief.

1. The subject parcel is entirely within the RPA. Therefore, it is not possible to locate the parking outside the RPA. Several alternatives have been considered. Each alternative is less feasible or results in a greater environmental impact than the proposed lot in its proposed location:
  - i. Placing the parking lot on the adjacent Dominion Power Parcel – This alternative is not viable as the land is a containment berm that is part of a permitted landfill for fly ash and would require permit amendments. In the event permit amendments were able to be obtained, this alternative would generate more impact than the proposed improvements as: [1] the parcel also lies within the RPA; [2] grade rises approximately 20 feet at an approximately 3H:1V slope that would require significant earthwork and retaining walls, and [3] would create more land disturbance within the RPA than the recommended parking lot location.

- ii. Provide shuttles to the area from offsite – This alternative is not feasible and does not meet the goals of the project. Providing a shuttle would require the installation of a drop off and turnaround area. This development would also be in the RPA and result in a similar land disturbance to the proposed parking. A shuttle system would require prearranged scheduling of use of the facility, limiting general public use. The goal of the project is to provide open access to the marsh habitat and waters for boat launching.
- iii. Create pedestrian access from adjacent parking – There is parking approximately 1,000 LF away adjacent to Henricus Historical Park. Utilization of this lot is less feasible than the proposed lot as [1] adjacent grade would not allow for handicapped access or good walking surfaces using the roadway; [2] this is a long distance to carry canoes or kayak boats to launch and [3] for safety, the creation of separate sidewalks would involve land disturbance within the RPA of a similar impact as the proposed parking area.

After evaluating alternatives, the owner and engineer have worked to develop a plan that minimizes the level of disturbance while meeting desired Chesterfield County Parks and Recreation programming. The parking area has been placed directly adjacent to the existing road so no additional access drives are proposed, which limits the area of impact to the RPA. Parking lot disturbance has been minimized by utilizing a retaining wall rather than fill to tie the development into existing topography. Finally, the location of the parking area was chosen to minimize wetland impacts and provide as much buffer to open water as possible.

- b. Granting the exception shall not confer any special privileges upon the applicant that are denied by this division to other property owners who are subject to its provisions and who are similarly situated.
  - 1. The parking area will be similar in nature to parking areas adjacent to water recreation facilities such as marinas or boat launches. In addition, Section 19.1-527 allows for the construction of public roadways within the RPA as an activity exempt from the ordinance and Section 19.1-524 allows for the administrative approval of private driveways within the RPA. Although the proposed parking area is not specifically a public road, it is directly adjacent and integral to one and in effect would present a similar footprint as a public road or driveway. Based on these arguments, our request for an exception would not confer special privileges upon the applicant.
- c. The exception is in harmony with the purpose and intent of this division and will not result in a substantial detriment to water quality.
  - 1. The proposed parking is in harmony with the purpose and intent of the Division and will not result in a substantial detriment to water quality due to the following development conditions:



- i. A Water Quality Impact Assessment (WQIA) has been completed and contains the details of direct measures and Best Management Practices (BMPs) that are proposed to limit impact to water quality by the proposed parking lot and passive recreation facilities. The implementation of these recommended measures within the WQIA will result in the reduction of the environmental impact of the proposed facilities.
  - ii. The majority of the parking area will be constructed of permeable pavement, which will serve to reduce the volume of runoff and remove targeted pollutants. Additional measures listed below in section (e) will also contribute to the reduction of pollutants.
- d. The exception request is not based on conditions or circumstances that are self-created or self-imposed.
  - 1. The proposed development is an expansion of the Chesterfield Parks and Recreation programming around the Henricus Historical Park and Dutch Gap Conservation Area. These two public areas, including the project property are entirely located in an RPA. Therefore, it is impossible to locate the parking area outside the RPA. The proposed location of the parking area has been sited to minimize land disturbance while providing a single access point to open water. The location is also ideal as there is existing road access and requires only the parking footprint for impacts to the RPA. The overall project is supported by the County's Comprehensive Plan designating the area for conservation/recreation as conservation areas are quality habitats that can include public use and viewing. The proposed location is the area of least impact as it is on the periphery of the primary resource, Dutch Gap Relic River marsh, with opportunities for public education, in conjunction with Henricus Historical Park and supported by public convenience facilities, visitor center and restrooms. The intended use of this property is for recreation and public enjoyment of natural resources; the parking lot facilitates that use. Therefore, the exception request is based on the intended actual use of the property and not conditions that are self-imposed.
- e. Reasonable and appropriate conditions are imposed, as warranted, that will ensure that the permitted activity will not cause a degradation of water quality.
  - 1. As part of the Site Plan Process for Plan 16PR0126, Environmental Engineering has requested the use of super silt fence rather than standard silt fence adjacent to the downstream wetlands. Further, the owner and engineer have self-imposed the use of permeable pavement to reduce runoff volume and treat target pollutants. To reduce the potential for scouring downstream of the development, gravel diaphragms will be utilized at the two 4" discharge points. A special RPA seed mix has also been proposed to reestablish the areas that are cleared for the project and the design has been laid out such that removal of existing vegetation is the minimum possible to complete the construction process. The combination of these measures are proposed to ensure that the permitted activity will not cause a degradation of water quality.

- f. The request is being made because of the particular physical surroundings, use, shape, or topographical conditions of the specific property involved or property adjacent to or within 100 feet of the subject property, or a particular hardship to the owner will occur, as distinguished from a mere inconvenience, if the strict letter of this division is carried out.
- 1. The Dutch Gap Conservation Area to the south and east, the James River to the north, and the Relic River Marsh Area to the west surround the subject parcel and project site. As such, the entire project site is located in an RPA. Further, the proposed parking lot is constrained by the access road to the Henricus Historical Park directly south that abuts an adjacent property owner. Strict letter of this division would create a particular hardship as without the accessory parking, the passive recreation boardwalk and water access intended to support the conservation/education uses of this property would not be viable projects.